

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of the Application of)
Verizon New Jersey, Inc., Bell Atlantic)
Communications, Inc., Verizon Global)
Networks, Inc. and Verizon Select)
Services, Inc. For Authorization to Provide)
In-Region InterLATA Services in the State)
of New Jersey)

CC Docket No. 02-67

**REPLY COMMENTS OF
CONVERSENT COMMUNICATIONS OF NEW JERSEY, LLC**

Conversent Communications of New Jersey, LLC ("Conversent"), by counsel, hereby submits its reply comments on the renewed application of Verizon New Jersey, Inc., Bell Atlantic Communications, Inc., NYNEX Long Distance Company, Verizon Global Networks, Inc., and Verizon Select Services, Inc. ("Verizon") for authority to provide in-region interLATA services in the State of New Jersey.

Conversent supports the initial comments filed by AT&T and XO pertaining to Verizon's non-recurring charges for hot-cuts ("hot-cut NRC"). Although Verizon has made a step in the right direction by voluntarily reducing its hot-cut NRC to \$35.00, it has made no binding commitment to actually implement this rate for any certain period of time. To the contrary, Verizon's March 20th letter to the New Jersey Board of Public Utilities merely states that the \$35.00 NRC "will be in effect until either the sooner of two years or the Board's final resolution of the AT&T Motion regarding hot-cut pricing in this proceeding, unless the Board otherwise modifies the rate." Both AT&T and Conversent currently have Motions for Reconsideration

pending before the Board that pertain to hot-cut pricing.¹ If the Board denies these Motions, and upholds Verizon's hot-cut NRC of \$159.76 for the first loop and \$73.01 for additional loops, the price squeeze detailed previously by Conversent and others will reappear, as well as the huge disparity in hot-cut NRCs for New Jersey as compared to other Verizon states previously documented by Conversent² Moreover, even without Board action, Verizon could submit another letter to the Board after its 271 Application is approved that revokes the \$35.00 hot-cut NRC.

Moreover, Verizon's commitment to temporarily lower the hot-cut NRC in New Jersey to \$35.00 cannot be fairly described as "mirroring" the Agreement reached in New York. This is because the \$35.00 hot-cut NRC in New York will last for *at least* two years, and the expectation is that it will last longer. As indicated above, the \$35.00 hot-cut NRC that is offered in New Jersey is described as a "promotional" rate that will last until "either the sooner" of two years or the Board's final resolution of the Motions for Reconsideration. Thus, the term of the reduced hot-cut NRC in New Jersey may well be significantly shorter than the term in New York.

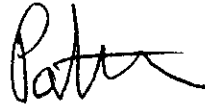
Perhaps Conversent has missed some subtle nuance regarding Verizon's commitment with respect to hot-cut NRCs. If it has, and Verizon truly intends to make the \$35.00 hot-cut NRC available in the same manner and for the same term as all other unbundled network element

¹ See *Board's Review of Unbundled Network Element, Rates, Terms and Conditions of Verizon-New Jersey*, Motion for Reconsideration of Conversent Communications of New Jersey, LLC, Docket No. TO0060356 (filed Apr. 3, 2002). A copy of Conversent's motion is attached hereto as Attachment 1.

² Letter from Patrick J. Donovan, Counsel for Conversent, to William F. Caton, Acting Secretary, Federal Communications Commission (Mar. 8, 2002) (filed in Docket No. 01-347).

rates and charges adopted by the Board, then Conversent withdraws its objection. Absent this clarification, the Commission should reject Verizon's Application.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Patrick J. Donovan", written over a horizontal line.

Patrick J. Donovan
Ronald Del Sesto
Counsel for Conversent Communications of
New Jersey, LLC

Dated: April 19, 2002

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

In the Matter of the Board's Review)	
Of Unbundled Network Element, Rates)	Docket No. TO0060356
Terms and Conditions of Verizon-New)	
Jersey)	

Motion for Reconsideration of Conversent Communications of New Jersey, LLC

Conversent Communications of New Jersey, LLC ("Conversent" or the "Company") hereby files this Motion for Reconsideration of the Board's March 6, 2002 Order in the above captioned proceeding. In support of its Motion, Conversent states as follows:

Introduction

Conversent is a recent, facilities-based market entrant that relies on Verizon-New Jersey ("VZ") to provide it with access to unbundled loops, including 2 wire analogue, xDSL, DS-1, DS-3 and dark fiber loops, at TELRIC rates. Conversent has entered the New Jersey market by installing its own switch, installing its own transmission equipment in several VZ central offices, and connecting such central offices by way of ILEC provided transport, including dark fiber. The Company is aggressively marketing its services to small and medium sized New Jersey businesses.

By collocating in VZ central offices, Conversent is able to order unbundled loops in order to serve end-user customers. Competitive Local Exchange Carriers ("CLECs") such as Conversent that use this entry strategy typically order unbundled, 2-wire analog loops in order to provide basic voice telephone service.

As an operational matter, when Conversent wins a customer from VZ, VZ must perform a "hot-cut." This entails actually disconnecting the customer's existing service, reconnecting the loop that is cross-connected to the CLEC's facilities, and undertaking the associated translations

work in VZ's switch. The importance of obtaining hot-cuts at TELRIC rates to Conversent's business plan can not be overstated.

Argument

The non-recurring charges ("NRCs") for hot-cut 2-wire analog loops set forth in the March 6th Order are excessive and not TELRIC compliant. If adopted, these NRCs will prevent Conversent from having a meaningful opportunity to compete for small business customers in New Jersey. Prior to the March 6th Order, VZ charged Conversent a service order fee of \$23.55 (covering multiple loops) and an installation charge of \$8.61 for each unbundled loop. Unfortunately, under the Board's March 6th Order, the NRC for a 2-wire hot-cut, without a premise visit, is \$159.76 for the first loop and \$73.01 for additional loops. With a premises visit, the NRC for the first loop is \$233.12 and \$103.90 for additional loops. Thus, if the March 6th Order is allowed to go in effect, the hot cut NRC for a single line customer (with no premise visit) will be increased from \$32.16 to \$159.76, a staggering increase of about 500 percent! For a six-line customer, the NRC will jump from \$75.21 to \$524.81.

The NRCs in the March 6th Order are much higher than in other Verizon states where Conversent does business or is certified to do business. In neighboring New York, the charge for a hot-cut is \$35.00 per loop. In Massachusetts, the NRC for a single line customer is \$15.26 (service order charge for one loop of \$0; service connection-central office wiring charge of \$1.90; and service connection-other charge of \$13.36). *Verizon-Massachusetts DTE Tariff 17, Part M, Section 1, Pages 3, 10 and 12.1, First Revision*. In New Hampshire, the NRC is \$29.52 (service order charge for one loop of \$0; service connection-central office wiring charge of \$8.85; and service connection-other charge of \$20.67). *Verizon-New Hampshire SGAT Section 5.5.2.2*. In Vermont, the NRC is \$6.26. *Verizon-Vermont SGAT, Section 5.5.2.2*. In Maine, the

NRC is \$22.88 (service order charge of \$0; service connection-central office wiring charge of \$6.79 and service connection-other charge of \$16.08). *Maine Public Utilities Commission Investigation of Total Element and Long-Run Incremental Cost (TELRIC) Studies and Pricing of Unbundled Network Elements*, Order (February 12, 2002) *Verizon-Massachusetts DTE Tariff 17, Part M, Section 1, Pages 3, 10 and 12.1, First Revision*. In Texas, Southwestern Bell charges \$17.61 (service order charge of \$2.58 and installation charge of \$15.03). *Texas 271 Agreement, Appendix Pricing UNE, Page 1 of 14*.

Conversent agrees with AT&T that the appropriate forward-looking non-recurring charge is \$4.35 per hot-cut. If this rate is not adopted, Conversent urges the Board to adopt a NRC that is no higher than the \$35 charge established in New York.

In large measure, the new New Jersey rates are excessively high for two reasons. First, as pointed out by AT&T, Verizon has improperly costed-out manual processes rather than forward looking processes that would have less manual work. Second, even if Verizon is to be allowed to cost out such manual processes, it has improperly relied on unrealistic time estimates contained in self-administered surveys. The Board appears to have recognized that Verizon's use of such surveys produces biased results, but it did not sufficiently mitigate for the bias. *March 6 Order at 156*. Other state commissions have ordered Verizon to recalculate the NRCs using the minimum times to perform tasks taken from the surveys instead of the average times. *Massachusetts D.P.U./D.T.E. 96-73-74, 96-75, 96-80/81 96-83, 96-94 Phase 4-L, Consolidated Petitions of New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts, Teleport Communications Group, Inc., Brooks Fiber Communications of Massachusetts, Inc., AT&T Communications of New England, Inc., MCI Telecommunications Company, and Sprint Communications Company, L.P., Pursuant to Section 252(b) of the Telecommunications Act of*

1996, for Arbitration of Interconnection Agreements Between Bell Atlantic-Massachusetts and the Aforementioned Companies, Page 25 (October 14, 1999). If the New Jersey Board were to issue a similar directive, the NRCs would come down substantially.

There is little question that the NRCs for hot-cuts substantially exceed TELRIC compliant rates. If they are allowed to go in effect, Conversent and other facilities-based CLECs that are dependent on hot-cuts in order to serve small business customers will be severely harmed. Accordingly, Conversent requests the Board to reconsider its March 6th Order and substantially reduce the NRC for hot-cuts.

Respectfully submitted,

by:

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Dated: April 3, 2002